



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/711,874

10/11/2004

Jean Prevost

SWA-031187CO01

5873

22876

7590

08/22/2006

FACTOR & LAKE, LTD
1327 W. WASHINGTON BLVD.
SUITE 5G/H
CHICAGO, IL 60607

EXAMINER

BALDWIN, GORDON

ART UNIT

PAPER NUMBER

1775

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/711,874	PREVOST, JEAN	
	Examiner	Art Unit	
	Gordon R. Baldwin	1775	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20051209</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner's Comment

Examiner considers the "withdrawn" labeling of claims 1-40 to be incorrect. The claims of 1-40 are considered cancelled, due to the preliminary amendment submitted on 12/9/2005, in addition to no restriction requirement being made in the case.

Priority

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original non-provisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, **Application No. 60/220,601**, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. The parent application (10/363,538) which claims priority back to two provisional applications 60/220,601 and 60/277,274, has improper priority claimed, because the provisional application of 60/220,601 does not cover any of the subject matter claimed in the applications claiming priority to it. This may be a typographical error for the number of the provisional document, but it need to be resolved as soon as possible.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 41-48 are rejected under 35 U.S.C. 102(b) as being Grise by (Pat. No. 4,884,865).

Consider claim 41, 43 and 45, Grise teaches a backing, for carpets (Col. 5, lines 56-64), that is additionally used for the illumination of athletic fields. (Col. 6, lines 25-38) The lighting system (which is also encompassed in the backing) uses a lighting source (light emitting diode (Col. 5 lines 1-10)) where the fiber optic bundles (50) are pushed through holes in the carpet, which are considered to be between individual synthetic fibers on the surface of the artificial turf. Additionally, the light source is considered to be visible on the surface of the turf system taught by Grise.

Consider claim 42, Grise teaches that the Turf can be used on athletic fields (Col. 6 lines 25-38) and in airplanes. Since airport runway surfaces that would use artificial turf are going to of the same geographical nature as athletic surfaces, flat with short grass, the teaching of athletic fields is also considered to encompass airport runway surfaces.

Consider claim 44, Grise teaches the use of a light emitting diode as the lighting source. (Col. 5 lines 1-10)

Art Unit: 1775

Consider claim 46, Grise teaches that the optic fibers reflect the color of the carpet and may be supplemented with reflective metallic elements. (Col. 2 lines 45-55)

This passage is considered to teach the use of reflective particles.

Consider claim 47, Grise is considered to teach that the lighting system (which is considered to encompass luminescent material) may be placed in a variety of configurations, which is considered to encompass having the lighting system on the lateral edge of the backing material. (Col. 1 lines 25-35)

Consider claim 48, Grise teaches that the optical fibers are to extend from the backing and through the carpet or turf surface to be exposed along with the synthetic turf fibers. Since the optical fibers are luminescent when a light emitting diode is used in conjunction with them, therefore the synthetic turf configuration is considered to include luminescent material in its structure. (Col. 2 lines 13-20 and Col. 5 lines 56-65 and Col. 6 lines 25-35)


Conclusion:

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gordon R. Baldwin whose telephone number is (571)272-5166. The examiner can normally be reached on M-F 7:45-5:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on 571-272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GRB


JENNIFER C. MCNEIL
SUPERVISORY PATENT EXAMINER
8/19/06